

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM J. PASSARELLA, JR.,

Plaintiff

v.

CARDINAL FINANCIAL CORP.,

Defendant

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**3:19-CV-1170
(JUDGE MARIANI)**

ORDER

The background of this Order is as follows:

On July 9, 2019, Plaintiff William Passarella filed a Complaint against Cardinal Financial Corp. alleging that the Defendant “caused Plaintiff to succeed a credit debt in his name reaching the amount of \$95,713.32 without his knowledge.” (Doc. 1). Although Magistrate Judge Arbuckle initially granted Plaintiff’s motion to proceed *in forma pauperis* (Doc. 4), on July 23, 2019, the Magistrate Judge issued an Order revoking Plaintiff’s *in forma pauperis* status pursuant to 28 U.S.C. § 1915(g), explaining that Plaintiff has had “three prior actions or appeals dismissed as frivolous, malicious, or for failing to state a viable claim prior to initiating this action” and that Plaintiff does not allege in his current Complaint that he is under imminent serious physical injury (Doc. 8). Magistrate Judge Arbuckle thus vacated his prior Order granting Plaintiff’s motion for leave to proceed *in forma pauperis* and ordered Plaintiff to tender the full filing fee to the Court within 30 days of July 23, 2019. (*Id.*).

On August 8, 2019, Plaintiff filed a document entitled "Motion Please Listen to What I Have to Say Regarding Court's Restitution" (Doc. 9) and a second document entitled "Motion to Listen to What I Have to Say" (Doc. 10). The following day, Plaintiff filed a "Motion for Consideration of this Court" (Doc. 11). On August 26, 2019, Plaintiff filed a "Petition and Affidavit for Leave to Continue in forma pauperis" (Doc. 12).

On September 3, 2019, Magistrate Judge Arbuckle issued a Report and Recommendation ("R&R") recommending that the motions set forth above, as well as Plaintiff's motion for appointment of counsel (Doc. 7), be deemed withdrawn for failure to file an accompanying brief pursuant to the Middle District of Pennsylvania's Local Rules. (Doc. 13, at 4-5). The R&R further recommends that the action be dismissed for failure to pay the appropriate filing fee pursuant to 28 U.S.C. § 1915. (*Id.*, at 2-4, 5). Plaintiff has not filed any Objections to the pending R&R.

AND NOW, THIS 8th DAY OF JANUARY, 2020, upon review of Magistrate Judge Arbuckle's "R&R" (Doc. 13) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

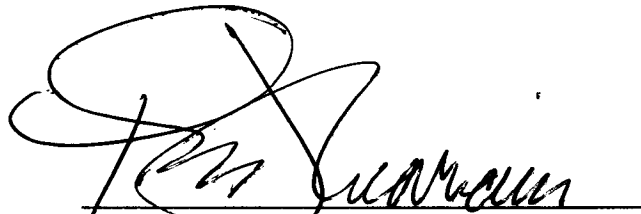
1. The R&R (Doc. 13) is **ADOPTED** for the reasons stated therein.
2. Plaintiff's "Motion Please Listen to What I Have to Say Regarding Court's Restitution" (Doc. 9); "Motion to Listen to What I Have to Say" (Doc. 10); "Motion for Consideration of this Court" (Doc. 11); and "Petition and Affidavit for Leave to

Continue in forma pauperis" (Doc. 12) are **DEEMED WITHDRAWN** and **DISMISSED**¹.

3. Plaintiff's Motion to Appoint Counsel (Doc. 7) is **DEEMED WITHDRAWN** and **DISMISSED**.²

4. Plaintiff's action is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. 1915(g).

5. The Clerk of Court is directed to **CLOSE** this action.

A handwritten signature in black ink, appearing to read 'Robert D. Mariani', is written over a horizontal line.

Robert D. Mariani
United States District Judge

¹ Even giving Plaintiff every benefit, and thus attempting to analyze his motions (to the extent that the filings may be considered motions) on their merits, there is no basis to grant Plaintiff's requests. Plaintiff's first motion simply requests that the Court consider "reopening" the case and allow him to pay "20% not the [w]hole \$350" (Doc. 9). Similarly, Plaintiff's second motion (Doc. 10) merely informs the Court that he does not have \$350. Neither document addresses the Magistrate Judge's findings supporting the revocation of Plaintiff's *in forma pauperis* status. Plaintiff's third motion (Doc. 11) asserts that the three cases which formed the basis for Magistrate Judge Arbuckle's finding that the "three strikes" rule applies, while dismissed, were, in fact, meritorious despite the Court's rulings in those cases. This motion thus in essence requests that this Court review the findings and conclusions of another Court. This we cannot do. Finally, Plaintiff's "Petition and Affidavit for Leave to Continue in forma pauperis" (Doc. 12) appeals the Magistrate Judge's revocation of his *in forma pauperis* status to this Court and requests as relief that this Court "grant him leave to continue in forma pauperis" (*id.* at 3). As with his prior motions, Plaintiff again does not challenge the Magistrate Judge's findings, but only asserts that he cannot afford the full filing fee.

² The Court has also conducted an analysis of the *Tabron* factors and finds that the application of those factors supports the denial of Plaintiff's motion for counsel, particularly given the stage and posture of the proceedings. See *Tabron v. Grace*, 6 F.3d 147, 155-157 (3d Cir. 1993).